



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New	Vendor Code		SC	Dept.	Contract Number	
<input type="checkbox"/> Change	SUKUTCO462			SWM		
<input type="checkbox"/> Cancel				A		
County Department			Dept.	Orgn.	Contractor's License No.	
DPW – Solid Waste Management Division			SWM	SWM		
County Department Contract Representative			Telephone		Total Contract Amount	
Peter H. Wulfman, Division Manager			386-8703		\$7,550,370	
Contract Type						
<input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input checked="" type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason: the Solid Waste Management Division (SWMD) prefers to not encumber this contract. Since the total contract amount includes estimates based upon unit pricing, not encumbering this contract allows SWMD greater flexibility in the payment of amounts due under the						
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount	
		Ref. Paragraph 7	Ref. Paragraph 7	\$7,550,370		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
EAL	SWM	SWM	410	4010	60R11260	\$7,550,370
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Project Name			Estimated Payment Total by Fiscal Year			
Project No. 03-04-00031			FY	Amount	I/D	FY
Construction of the MVSL Unit 3			03/04	\$7,550,370		
Phases 3 & 4 Groundwater						
Protection System Composite Liner						
Contract Type: 2(a)						

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name SUKUT CONSTRUCTION, INC. hereinafter called CONTRACTOR

Address 4010 W. CHANDLER AVE.

SANTA ANA, CALIFORNIA 92704

Telephone (714) 540-5351 Federal ID No. 33-0323462

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

1. Contract Documents. The complete contract includes all of the Contract Documents, to wit:

- A. Advertisement For Bids dated February 24, 2004.
- B. Bidder's proposal dated April 1, 2004.
- C. Bid Documents entitled "Bid Documents for the Construction of the Mid-Valley Sanitary Landfill Unit 3 Phases 3 & 4 Groundwater Protection System Composite Liner."
- D. Drawings, entitled "Plans for the Construction of the Mid-Valley Sanitary Landfill Unit 3 Phases 3 & 4 Groundwater Protection System Composite Liner."
- E. Addendum No. 1, dated 3/25/04.
- F. Addendum No. 2, dated 3/29/04.

- G. Certified copy of the record of action of the Board of Supervisors, County of San Bernardino, meeting of April 20, 2004.

And they are included in their entirety as a part of this Contract by reference thereto.

2. Scope of Work. The Contractor agrees to perform certain work set forth and particularly described in the aforementioned documents, incorporated herein by reference, in consideration of:

BASE BID \$7,550,370.00

3. Payment and Performance Bonds. Contractor will furnish a payment bond in an amount equal to one hundred percent (100%) of the contract price, and a faithful performance bond in an amount equal to one hundred percent (100%) of the contract price, said bonds to be secured from a surety company satisfactory to the Board of Supervisors prior to the commencement of work under this Contract. Bonds shall remain in full force and effect for a period of one (1) year following the date of filing of the Notice of Completion.

4. Indemnity. The Contractor agrees to indemnify, defend and hold harmless the Solid Waste Management Division, the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law.

5. Insurance. Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract the following types of insurance with limits as shown:

- **Workers' Compensation** - A program of workers' compensation Insurance or a State-approved Self Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Contractor and all risks to such persons under this Agreement.

If Contractor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employee" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Risk Manager.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

- **Comprehensive General and Automobile Liability Insurance** - This coverage to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).

- **Contractor's Liability Insurance** – Combined single limits of \$1,000,000 for bodily injury and property damage.
- **Completed Operations Liability** – Limits of at least \$1,000,000 per claim.
- **Fire, extended coverage, vandalism etc.** - The Contractor shall take out and maintain during the life of this Contract an insurance policy or policies for fire, with extended coverage, for vandalism and malicious mischief covering the work of this Contract. The said insurance policies shall be paid for by the Contractor and shall be secured in the name of the County of San Bernardino, in a variable amount sufficient to provide full coverage on all completed work and materials in storage at the site at any stage of completion, up to the date of acceptance of the work by the County. The policy shall provide for payment to the County for the benefit of the County or Contractor as their interests may appear.

Additional Named Insured - All policies, except for the Workers Compensation, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.

Waiver of Subrogation Rights - Contractor shall require the carriers of the above-required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.

Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

Proof of Coverage - Contractor shall immediately furnish certificates of insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department; and Contractor shall maintain such insurance from time Contractor commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Contractor shall furnish certified copies of the policies and all endorsements.

Insurance Review - The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

6. Compensation. The County agrees to pay, and the Contractor agrees to accept in full payment for the work outlined in the Contract Documents, the sum of **SEVEN MILLION FIVE HUNDRED FIFTY THOUSAND THREE HUNDRED SEVENTY AND NO HUNDREDTHS** (\$7,550,370.00) subject to additions and deductions, if any, in accordance with said documents [including without limit that compensation due for unit price work shall be the actual number of such units performed multiplied by the unit price]. Payment shall not be made more often than once each thirty (30) days, nor shall the amount paid be in excess of ninety percent (90%) of the contract at time of completion. Final payment to be made thirty-five (35) days subsequent to filing of Notice of Completion. Contractor may, upon Contractor's written request, and approved by the Board of Supervisors, at Contractor's expense, deposit substitute securities, as stated in Government Code Section 16430, and as authorized by Public Contract Code 22300, in lieu of retention monies withheld to insure performance.

7. Notice to Proceed; Liquidated Damages. The Contractor shall commence the work required by this Contract within ten (10) days of the date specified in the Notice to Proceed from the County of San Bernardino to proceed with the work and shall complete it within Seventy-five (75) working days.

If Contractor fails to complete the work required by this Contract within the time period specified in the Contract Documents, Contractor shall be assessed Liquidated Damages in the amount of **THREE THOUSAND DOLLARS AND NO HUNDREDTHS** (\$3,000.00) per day, if and to the extent provided in Section 39 of the General Conditions.

8. Secure Payment of Employee Compensation. The Contractor hereby agrees to comply with the State Labor Code and acknowledges that, in accordance with Section 3700 of the State Labor Code, he will be required to secure the payment of compensation to his employees.

9. Compliance with Labor Law. The Contractor acknowledges that he will be held responsible for compliance with the provisions of Sections 1777.5 and 1776 of the State Labor Code.

10. Substitution of Subcontractors. The Contractor hereby agrees to reimburse the County for costs incurred by the awarding authority in the substitution of subcontractors. Where a hearing held pursuant to the provisions of Chapter 4 of the Public Contract Code (commencing with Section 4100) by the awarding authority or a duly appointed hearing officer, the Clerk of the Board of Supervisors shall prepare and certify a statement of all costs incurred by the County for investigation and conduct of the hearing, including the costs of any hearing officer and shorthand reporter appointed.

The statement shall then be sent to the Contractor, who shall reimburse the County for such costs. If not paid separately, such reimbursement may be deducted from any money due and owing to the Contractor prior to acceptance of the project.

11. Equal Employment. During the term of the Agreement, Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act, County Policy No. 15-01 and other applicable federal, state and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

12. Conflict of Interest. Contractor shall make all reasonable efforts to ensure that no County office or employee, whose position in the County enables him/her to influence any award of the Agreement or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Agreement or shall have any relationship to the Contractor or officer or employee of the Contractor.

13. Former County Officials. Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates, or members of the business. The information also includes the employment and/or representative capacity and the dates these individuals began employment with or representation of Contractor. For purposes of this section, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

14. Improper Consideration. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding any Agreement awarded by County.

The County, by written notice, may immediately terminate any Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension, or evaluation process once a Contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

15. Inaccuracies or Misrepresentations. If in the course of the administration of a this Agreement, the County determines the Contractor as made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, the Agreement may be immediately terminated.

In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

16. RESERVED.

17. RESERVED.

18. Cooperation Between All System Contract Contractors. This Contract is but one of the County contracts which are or will be necessary to keep, operate and maintain the County's Solid Waste

Disposal System (“**Disposal System**”), including without limit for the overall expansion, operation, maintenance, remediation and closure of the Disposal System. Specifically, but not by way of limitation, the County has entered, or will enter, into the following contracts with third parties: (i) construction contracts related to various aspects of the expansion, remediation and closure of the Disposal System; (ii) contracts for the management of the foregoing construction contracts, to the extent the County does not manage such contracts with its own employees; (iii) a contract for the aggregate operation at the Mid Valley Landfill; (iv) contracts for the operation and maintenance of the landfill gas collection systems located at various County Landfills; (v) the lease of the landfill gas collection systems and lease of the rights to the landfill gas collected by such systems; (vi) a contract for the operation of the Baker Transfer Station; (vii) a Development Contract with the City of Rialto regarding various aspects of the expansion of the Mid Valley Landfill; (viii) a contract with the City of Needles relating to the closure of the Needles Landfill; and (ix) a contract for performing day to day operations at the facilities comprising the Disposal System. These contracts, together with this Contract, will collectively be referred to as “**All System Contracts**”.

In performing its duties under this Contract, Contractor shall be required, pursuant to direction provided by the Contract Administrator, to coordinate such performance with the performance of the duties required of the contractors under each of the other All System Contracts. Likewise, the contractors under each of the other All System Contracts will be required to coordinate the performance of the duties required of it under the terms of its contract with the performance of the duties required of the contractors under each of the other All System Contracts, including this Contract. The goal of the County is to maximize, in the aggregate, the effectiveness of performance of the duties required under all of the All System Contracts to keep, operate and maintain the Solid Waste Disposal System, rather than to maximize the effectiveness of performance of duties required to be performed under any single All System Contract.

19. Recycled Paper Products. The County has adopted a recycled product purchasing standards policy (11-10), which requires contractors to use recycled paper for bids and for any printed or photocopied material created as a result of a contract with the County. The policy also requires Contractors to use both sides of the paper sheets for reports submitted to the County whenever practicable.

In addition, the policy requires the use of recycled products in fulfilling contractual obligations wherever practicable. Attached hereto as Exhibit “1” is Policy 11-10 and Standard Practice 11-10SP implementing that Policy.

20. Right to Monitor and Audit. The County shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under the Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of the Contract and comply with any and all reporting requirements established by the County.

All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under the Contract or until all pending County, State and Federal audits are completed, whichever is later.

21. Delivery of Contract. The contract is delivered by the Contractor to County for acceptance by its Board of Supervisors at San Bernardino, California, and is deemed to have been entered into at San Bernardino.

IN WITNESS WHEREOF, the Board of Supervisors of the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers on its respective behalf.

COUNTY OF SAN BERNARDINO

► _____
Dennis Hansberger, Chairman, Board of Supervisors

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
of the County of San Bernardino.

By _____
Deputy

_____ **SUKUT CONSTRUCTION, INC.**
(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - **sign in blue ink**)

Name _____ **J. H. PABBRUWEE**
(Print or type name of person signing contract)

Title _____ **VICE PRESIDENT**
(Print or Type)

Dated _____ **APRIL** _____, 2004

Address _____ **4010 W. CHANDLER AVE.** _____
_____ **SANTA ANA, CALIFORNIA 92704**

Approved as to Legal Form

► _____
County Counsel

Date _____

Reviewed by Contract Compliance

► _____

Date _____

Presented to BOS for Signature

► _____
Department Head

Date _____

Auditor/Controller-Recorder Use Only

☐ Contract Database ☐ FAS

Input Date

Keyed By

EXHIBIT 1

Policy 11-10
and
Standard Practice 11-10SP